

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Norfolk Division

BRIAN FARABEE, #1002739,

Petitioner,

v.

ACTION NO. 2:16cv268

HAROLD W. CLARKE, Director,  
Virginia Department of Corrections,

JACK BARBER, Commissioner,  
Virginia Department of Behavioral Health  
and Developmental Services,

Respondents.

FILED

MAY 15 2018

CLERK, US DISTRICT COURT  
NORFOLK, VA

FINAL ORDER

Before the Court is a Petition for a Writ of Habeas Corpus filed pursuant to 28 U.S.C. § 2241 and the Respondents' Motion to Dismiss the Petition. In his Petition, the pro se Petitioner's chief complaint is that because the Williamsburg & James City County Circuit Court has adjudicated Petitioner as requiring civil commitment for treatment of his mental illness, any time that Petitioner is transferred to any VDOC facility, or his care is otherwise assumed by an entity not under the control of the Commissioner of VDBHDS, his Constitutional rights are violated.

The Petition was referred to a United States Magistrate Judge for report and recommendation pursuant to the provisions

of 28 U.S.C. § 636(b)(1)(B) and (C) and Local Civil Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia. The Magistrate Judge's Amended Report and Recommendation filed February 12, 2018, recommends dismissal of the Petition with prejudice. On April 23, 2018, the Petitioner filed objections to the Amended Report and Recommendation. The Respondents have not responded to the Petitioner's objections and the time to do so has expired.

The Court, having reviewed the record and examined the objections filed by Petitioner to the Amended Report and Recommendation, and having made de novo findings with respect to the portions objected to, does hereby **ADOPT** and **APPROVE** the findings and recommendations set forth in the Report and Recommendation filed February 12, 2018. It is, therefore, **ORDERED** that the Respondents' Motion to Dismiss, ECF No. 30, be **GRANTED**, and that the Petition, ECF No. 1, be **DENIED** and **DISMISSED WITH PREJUDICE**. It is further **ORDERED** that judgment be entered in favor of the Respondents.

The Petitioner may appeal from the judgment entered pursuant to this Final Order by filing a written notice of appeal with the Clerk of this court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within thirty (30) days from the date of entry of such judgment.

The Petitioner has failed to demonstrate a substantial showing of the denial of a constitutional right, and therefore, the Court declines to issue any certificate of appealability pursuant to Rule 22(b) of the Federal Rules of Appellate Procedure. See Miller-El v. Cockrell, 537 U.S. 322, 335-36 (2003).

The Clerk shall mail a copy of this Final Order to Petitioner and to counsel of record for the Respondents.

It is so ORDERED.

  
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Mark S. Davis  
United States District Judge

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MARK S. DAVIS  
UNITED STATES DISTRICT JUDGE

May 14, 2018